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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/723,591	11/28/2000	Robert P. Macaulay	NORC0008US(13469ROUS01U)	8528
21906 7590 02/12/2007 TROP PRUNER & HU, PC 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631			EXAMINER SCHEIBEL, ROBERT C	
			ART UNIT	PAPER NUMBER
			2616	
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			02/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/723,591	Applicant(s) MACAULAY ET AL.	
	Examiner Robert C. Scheibel	Art Unit 2616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-14, 16-23, 25-31, 33-35, 37-40 and 43-48.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.


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Continuation of 11. does NOT place the application in condition for allowance because: Examiner has reviewed the record as a whole and believes the rejections to be valid. Applicant has not amended the claims and Applicant's amendments (largely the same as those presented in the previous amendment) are not persuasive. Generally speaking, the claims are very broad as written. Through arguments, Applicant has attempted to narrow the claim scope; however, the claim language itself must be narrowed to overcome the present rejections.

More specifically, consider Applicant's arguments with respect to claims 1 and 3. In the first paragraph, Applicant has tried to define the concept of cloning via arguments to be more narrow than that required by the claim language. The combination of McClung and Bozek discloses the concept of cloning as it has been claimed. There is no requirement that cloning have the two features described in this paragraph. The method clearly must comprise these two features and the combination of McClung and Bozek discloses these steps as well as the remaining features of the claim. Applicant also argues that there is no motivation to combine; however, this motivation was clearly provided in the previous rejection of 11/20/06. Further, Applicant argues that the second indication does not result in accessing profile information associated with a first terminal. However, this was also clearly specified in the previous office action of 11/20/06 on page 8.

Consider Applicant's arguments with respect to claim 37. In part, Applicant has argued that Michalewicz does not disclose certain aspects of the claim which were disclosed by Alexander and thus cannot be used to modify Alexander to disclose the claimed invention. If Michalewicz disclosed all the elements that Applicant indicates may be lacking in this reference, it could have been used in an anticipatory 102 rejection and the combination would not have been necessary. Since this is not the case, the obviousness rejection has been made instead.

Applicant's arguments regarding claim 16 are similarly unpersuasive. For example, these arguments again assert that there is no motivation to combine Alexander and AAPA. However, such motivation was clearly provided on page 18 of the office action dated 11/20/06.

With respect to claim 23, Applicant has asserted that Examiner has admitted that the combination used in the rejection is not useful. On the contrary, Examiner stated that if the reference were modified as Applicant seemed to suggest, it may not be useful. This is clearly different than the modification that would likely be made by one of ordinary skill in the art as stated in the previous office action dated 11/20/06.

For at least the above reasons, Applicant's arguments are not persuasive and the amendment is not entered.